IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 621 of 1999

with

CRIMINAL MISC.APPLICATION No 4686 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHRINARAYAN SHSTRI

Versus

STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 621 of 1999
   MR AD SHAH for Petitioners
   PUBLIC PROSECUTOR for Respondent No. 1
   MR KJ SHETHNA WITH MR AMIT J SHAH for Respondent No. 2

2. Criminal Misc.ApplicationNo 4686 of 1999
   MR AD SHAH for Petitioners
   PUBLIC PROSECUTOR for Respondent No. 1
   NOTICE UNSERVED for Respondent No. 2

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 02/11/1999

ORAL JUDGEMENT-OPERATIVE PART

Heard learned counsel for the petitioner original accused Mr.A.D.Shah and Mr.Amit J. Shah, learned counsel with Mr.K.J.Shethna, learned senior counsel appearing for the Central Government - for opponent CBI and Mr.B.Y. Mankad, learned APP for respondent - State.

The petition to return the chargesheet as the same not being in compliance of the provisions of CrPC is dismissed. The reasoned order shall follow. The other rel
granted.

Date : 2-11-1999 [C.K.Buch, J.]
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CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 28/07/2000

CAV REASONED ORDER

1. This petition is filed under Article 226 of the Constitution of India read with provisions of sec.482 of Criminal Procedure Code, 1973 (hereinafter referred to as "CrPC" for short). Petitioners are original accused of a criminal case instituted on a police report and investigated by the Deputy Suptd. of Police, CBI (SCB), Mumbai. Petitioners have prayed for various reliefs including relief to issue a writ of mandamus directing Chief Judicial Magistrate, Nadiad to return chargesheet as the same being not in compliance with the provisions of the CrPC (i.e. as per the scheme provided under Sec.173 of the CrPC). It is not necessary to mention the reliefs prayed for by the petitioners, but the plain reading of the reliefs prayed in para-9 of the petition indicate that prayers (B) to (E) are consequential to the above-referred main relief prayed in para-9(A) of the petition. It is the endeavour of the petitioners that in the event of return of the chargesheet to the investigating agency as prayed for, resultant effect would be that police challan cannot be said to have been filed within the prescribed period of limitation i.e.

within 90 days from the date of arrest of the accused and they should be enlarged on bail on two major counts; firstly under the provisions of sec. 167(2) of CrPC and secondly on the ground that their committal to the judicial custody under sec.309 of the CrPC would become illegal and, therefore, order of bail in favour of the petitioners would be inevitable.

2. After filing of this petition, notices were issued and are served to the respondent State and to the investigating agency - Deputy Supdt. of Police, CBI (SCB), Mumbai. In response to the notice, Mr. Gopal Motilal Kushikar (D.S.P., I.O., C.B.I.) filed affidavit resisting the petition and the prayer advanced in the petition. It is submitted that the petition is devoid of merits on all counts and so the same be dismissed.

3. Considering the nature of the disputes between the parties and legal contentions raised by the petitioners, this Court, vide order dated 18.8.1999, decided to hear this petition finally on 16.9.1999. After hearing learned counsel for the parties, vide operative order dated 2.11.1999, I have dismissed the petition, inter alia, holding that the prayer to return the chargesheet cannot be granted and as other reliefs are consequential reliefs, none of the reliefs is granted. As observed in the said order dated 2.11.1999, this reasoned order is passed.

4. Though the facts of the case of the prosecution against the petitioners- original accused are not of much relevance, it would be convenient to mention facts in nutshell to appreciate the legal contentions raised by the petitioners and the resistance put forward by the respondent Investigating Agency namely CBI. Undisputedly, the petitioners are facing charges under sec.364, 365, 302, 201 and sec.120B of the Indian Penal Code. On 5.5.1998, original complainant Jatin Suryakant, known as Jatin Bhagat, informed Chaklashi Police Station of district Kheda in writing about missing of one Swami Gadadharanandji. According to the prosecution, said Swami Gadadharanandji was killed and the petitioners are facing above-referred alleged charges of committing murder of said Swami Gadadharanandji. In couple of hours, investigation of the complaint lodged by said Jatin Bhagat was transferred to Nadiad Town Police Station and thereafter the same was transferred to LCB of the District. LCB Police interrogated certain persons including some of the accused and thereafter investigation was entrusted to CID, Crimes on or about 14.5.1998. In the month of September,1998, complainant

Jatin Bhagat filed Misc. Criminal Application No. 3996/98 before this Court praying that investigation should be transferred to CBI and on 21.9.1998, direction as prayed for was issued by this Court directing the State Government to transfer investigation to CBI. On 29.3.1999, some persons were arrested as accused and they were taken to police custody. Necessary orders were obtained from the competent court and arrested accused were on police remand up to 13.4.1999. On 6.4.1999, petitioners Narayan Shashtri and Vijay Bhagat were also arrested and their police remand was obtained up to 13.4.1999.

5. It is not a matter of dispute that investigating officer submitted chargesheet before the learned Chief Judicial Magistrate, Nadiad on 25.6.1999. It is the say of the petitioners that this chargesheet was without the statement of witnesses and documents on which investigating officer had placed his reliance and, therefore, chargesheet filed before the learned Chief Judicial Magistrate, Nadiad cannot be said to be a chargesheet in compliance with the Scheme provided under sec. 173 of the Code, especially as per sub-sec.(2) and sub-sec.(5) of sec. 173 of the Code and, therefore, the same ought to have been returned back to the investigating officer immediately. Acceptance of chargesheet without any supporting document was an act without jurisdiction on the part of the learned Chief Judicial Magistrate and, therefore, obviously, act of taking cognizance of the offence on a bare challan was illegal. So, order of taking cognizance cannot sustain in law. Consequently, it is argued and prayed that as on 90th day and subsequently on 1.7.1999, when application exh.4 was tendered before the learned Chief Judicial Magistrate, Nadiad praying bail under sec. 167(2) of the Code, there was no legal and valid chargesheet before the Court. So, learned Chief Judicial Magistrate ought to have granted default bail. It is also argued that learned Chief Judicial Magistrate ought to have held that the committal of the accused to judicial custody under sec. 309 of the Code was bad in law and, therefore also, accused were entitled to bail.

6. The facts leading to actual missing of deceased Gadadharanandji and finding arrived at by the investigating agency are very well narrated by the petitioners in the petition and hence I do not see any need to reiterate the same. However, it transpires that deceased Gadadharanandji was the Chairman of Shri Vadtal Swaminarayan Temple Board since 11.4.1998 and by virtue of his post/status, was authorised to appoint, transfer or remove Kotharis or Asstt. Kotharis of Vadtal

Swaminarayan Temple Trust and that he had decided to appoint certain persons as Kotharis and to transfer certain persons working on these posts. Basically, deceased Gadadharanandji was above controversy and he being an independent non-controvertial person, was commanding very good respect amongst Sadhus, devotees and followers of the temple. It is on record that except Nautam Swami and Premswarup Swami, relations of Gadadharanandji were harmonious with others. It is the case of the prosecution that Head of the temple Shri Ajendraprasad had expressed his concern about the decision taken by deceased Gadadharanandji to transfer certain Kotharis and Asstt. Kotharis. Order of transfer was cancelled. On 20.4.1998, at about 10.00 a.m., one of the petitioners accused namely Narayan Shashtri who was Asstt. Kothari of the temple, had gone to the room of deceased Gadadharanandji and threatened him of dire consequences in case he is transferred. Case of the prosecution mainly based on circumstantial evidence. Without going into the merits of the matter, this petition can be decided as the same stands mainly on legal submissions.

7. Mr.A.D. Shah, learned Senior Counsel appearing for the petitioners, in nutshell, has submitted that the officers of CBI started investigation after five months of the incident and thereafter arrested Shreeji Charan Swami, Madhavdas Swami, Swami Gyanprakash and Chimanbhai Dahyabhai Parmar. Investigating Officer, during remand period of these four persons, effected arrest of Narayan Shashtri and Vijay Bhagat on 6.4.1999. Filing of chargesheet on 25.6.1999, though was within 90 days from the arrest, chargesheet was totally incomplete. Mr. Shah has drawn attention of this Court to column nos. 3, 4 & 5 of the chargesheet (Page No. 18 of the petition). Column no.3 is meant for property including weapons found and Investigating Officer is bound to disclose facts pertaining to the property mentioned in column as to where, when and by whom property is found and details if such property is forwarded to the magistrate. It is mentioned in column no.3 that the properties are as per list Annexure : C. It is further mentioned that "muddamal will be produced after 15 days ". Mr. Shah has submitted that, therefore, it should be construed that column no.3 was without any detail. In column no.4, it is only mentioned that " as per list Annexure:B and list of document as per Annexure : C ". In column no.4, names and addresses of witnesses require to be indicated. Column no.5 of the chargesheet says about charge or information and name of offence and circumstances connected with it. These details are mentioned in

Annexure:A of the chargesheet. In the chargesheet, at the bottom, it is mentioned that " copies of chargesheet and statement shall be supplied to the accused after 15 days-on the date fixed latter on". It is well established that this endorsement is made by the officer who had tendered the chargesheet. Registrar of the Court of learned Chief Judicial Magistrate, Nadiad has put an endorsement at the top of the chargesheet that he has received chargesheet on 5.6.1999 without M.M. ec. On the reverse side of the chargesheet, below the signature of the Investigating Officer, it is mentioned presumably in the handwriting of the Registrar himself, that copy of the statement of chargesheet be produced. It was pointed out by learned Senior Counsel Mr. Shah that Investigating Officer having realised that chargesheet cannot be submitted within 90 days, has only forwarded report complying with the provisions of sec.173(2) of the CrPC and prayed the Magistrate to take cognizance of the offence so that statutory right available to the accused under sec. 167(2) of the CrPC is denied. It is submitted that detention of the accused on 91st day without submission of chargesheet was illegal and filing of report under sec. 173(2) of the CrPC without complying with the requirements under sec. 173(5) of the CrPC amounts to infringement of valuable right which has accrued in favour of the accused. Mr. Shah has argued that this type of action on the part of the investigating agency amounts to violation of right to live. It also affects the right of freedom and personal liberty and no accused can be deprived of his valuable rights without following due procedure of law. By quoting observations of the Apex Court which is reflected in para-7 of the petition, Mr. Shah has submitted that purpose of submission of police report with detail as required under sub-sec.(5) of sec. 173 of CrPC is to enable the learned Magistrate to satisfy himself as to whether material collected by the investigating agency brings home prima facie case against the accused persons. Material submitted with report, if found satisfactory, only then cognizance of the offence is required to be taken and thereafter he can proceed further in accordance with the provisions of CrPC. According to Mr. Shah, learned Chief Judicial Magistrate committed serious error in taking cognizance of the offence though there was no material before him on the day on which he took cognizance and registered criminal case passing order on the very chargesheet tendered before the Court. It is also argued that signing stamped order indicates about non-application of mind and, therefore also, taking of cognizance cannot be said to be a judicial order. Order of taking cognizance should not be passed mechanically

and without application of mind. Mr. Shah has vehemently argued that the learned Chief Judicial Magistrate has not even cared to note that original statements of the witnesses were not brought before him and the same are returned back to the Investigating Officer to enable him to prepare copies of the chargesheet and statements. Mr. Shah has submitted that nothing except annexures was produced and challan was totally incomplete and so same should be returned back to the Investigating Officer. It is alternatively argued that the challan tendered before the learned Chief Judicial Magistrate being incomplete and without any supporting documents, the order of taking cognizance was bad-in-law. Hence, petitioners have also challenged the order taking cognizance of the offence. Petitioners are chargesheeted for the offences triable by the Court of Sessions. In support of his arguments, learned Senior Counsel Mr. Shah has placed reliance on certain decisions of the Apex Court as well as of this Court.

8. In response to the submissions made by learned Senior Counsel Mr. Shah, learned Senior Counsel Mr. K.J.Shethna appearing for respondent State of Gujarat and learned Counsel Mr. Amit Shah appearing for the investigating agency- CBI, have also cited certain decisions analysing scheme of Sections 173(2), (5), 167(2), 200, 209 and 309 of CrPC. On close scrutiny of chargesheet tendered by the investigating agency and the endorsement made by the Registrar of the court of learned Chief Judicial Magistrate as well as by Investigating Officer, it clearly transpires that on the date of tendering chargesheet, original statements of witnesses and office copy of the chargesheet must have been handed over firstly to the Registrar of the Court concerned. Normally, chargesheets are tendered before the Registrar and they are taken to the Court so that the presiding officer of the court concerned can pass appropriate order. The fact of erasing word "NIL" in column no.3 and endorsement made by the Investigating Officer on the day on which chargesheet was tendered by the Investigating Officer, gives an impression that certain querries must have been raised and, therefore, only endorsement as to muddamal has been properly made by the Investigating Officer. Endorsement made by the Investigating Officer in column no.3, in view of first endorsement made by the Registrar at the top of the chargesheet, leaves no room to argue any further that the order passed by learned Chief Judicial Magistrate on 25.6.1999 taking cognizance and registering criminal case against the accused, was without application of mind. It is argued that in view of the endorsement made by the Registrar of the Court

initially, on raising the querry, the Investigating Officer must have clarified that he will produce the muddamal after 15 days, it may not be understood that there is no property which requires to be forwarded to the Court concerned. I am not inclined to accept this submission. Careful consideration of the affidavit filed by the Investigating Officer makes it clear that original papers referred to in the chargesheet were taken to the Court for supplying copies thereof along with copy of the chargesheet itself, and as per the direction given by the Registrar of the court concerned, Investigating Officer can have made the above-referred endorsement. The endorsement made by the Investigating Officer is in the form of an undertaking. So, in the event of non-compliance of this undertaking or in absence of any further order by the learned Chief Judicial Magistrate, the accused can legitimately agitate their grievance and pray for appropriate orders for breach of undertaking. It seems that copies of chargesheet and the statements were tendered before the learned Magistrate in given time and copies were also supplied to the accused. The facts revealed in paras 4 & 5 of the affidavit are clear and are not even contradicted by other side i.e. petitioners and it is also not controverted by the petitioners that on 12.7.1999 petitioners were provided copies of chargesheet, other papers and statements of the accused including documents mentioned in the chargesheet. Application exh.4 filed before the learned Chief Judicial Magistrate, praying default bail under sec.167(2) of CrPC, was dismissed by the learned Chief Judicial Magistrate. Order passed by the learned Chief Judicial Magistrate also reveals that chargesheet was filed within the prescribed period of limitation i.e. within 90 days and 15 days time was granted to tender copies of all the documents. This order, if read in light of first endorsement made by the Registrar at the top of the chargesheet, it can be legitimately inferred that police challan must have been tendered with original relevant papers and annexures attached to the chargesheet and Investigating Officer was permitted to bring out copies and tender the same to the Court within 15 days.

9. Mr. K.J.Shethna, learned Senior Counsel has rightly relied on the decision of the Apex Court in the case of State of Maharashtra v/s Ramdas Shrinivas Nayak and another, reported in AIR 1982 SC 1249, wherein the Apex Court has observed that " Judges' record was conclusive. Neither lawyer nor litigant may claim to contradict it, except before the Judge himself, but nowhere else. The Court could not launch into inquiry as to what transpired in the High Court." Mr. Shethna has

submitted that the events which might have taken place at the time of tendering of chargesheet are reflected on the original chargesheet itself and the order passed by the learned Magistrate rejecting application filed under sec. 167(2) of CrPC is clear. So, it would not be legal or proper to infer that nothing was brought before the learned Chief Judicial Magistrate when he actually passed order taking cognizance against the accused on 25.6.1999the day on which chargesheet was filed. Date of filing of chargesheet and order of taking cognizance bears the same date. It seems that this was done simultaneously. So, merely because order passed by the learned Chief Judicial Magistrate, Nadiad is stamped order, it cannot be said to be an order without application of mind. Signatures, blanks filled in seems to be in the handwriting of the learned Chief Judicial Magistrate himself. Considering number of statements and the facts revealed by the Investigating Officer in Annexure:A and addenda to column no.5 via-a-vis facts revealed in FSL Reports, in my view, learned Magistrate was authorised, on satisfaction, to take cognizance and was also authorised to ask the Investigating Officer to tender copies of documents sought to be relied on by him by granting some time.

10. Scheme of sub-sec.(2) & (5) of sec.173 of CrPC, if considered in light of provisions of sections 200 & 209 of CrPC, it was open to the learned Magistrate to get himself satisfied that the accused are supplied with copies of all necessary documents reflected in sub-sec.(5) of sec.173 of CrPC prior to the date of committal of the case to the Court of Sessions. Mr. Amit Shah, learned Counsel appearing for the Investigating Agency-CBI has rightly placed reliance on the decision in the case of Vihabhai Ramdas Patel v/s Hemtuji Shivaji Dabhi and Anr., reported in 1984(2) GLR 883. This Court, through Hon'ble Mr. Justice M.B.Shah, has held that report of Chemical Analyser, if not available and not sent with the chargesheet, then such chargesheet cannot be said to be an interim chargesheet. On perusal of the chargesheet tendered by CBI against the present petitioners, it clearly transpires that the same is not an interim chargesheet or incomplete chargesheet. In case of State of Maharashtra v/s Sharadchandra Vinayak Dongre and others, reported in AIR 1995 SC 231, observations of the Apex Court lays down a law wherein the Magistrate can even empower the Investigating Officer to submit a supplementary chargesheet. It is not necessary to reproduce relevant paras 6 to 8 as the said decision is self-explanatory. Ratio of the judgment is that after applying his mind to the police report and material submitted therein, if Magistrate is satisfied

that the cognizance of the offence is required to be taken, he shall proceed further in accordance with the provisions of CrPC. Sections 190(1)(b) of CrPC provides that a magistrate has powers to take cognizance upon a police report of such facts as are provided therein and on being satisfied that the case is fit one for taking cognizance of the offence. Mr. A.D.Shah had tried to argue that non-speaking order passed by the learned Chief Judicial Magistrate, Nadiad was not in accordance with the observations made by the Apex Court. However, the say of the learned counsel Mr. Amit Shah appearing for CBI requires to be accepted that if the Magistrate was satisfied on the report tendered under sub-sec.(2) of sec.173 of the Code, then it is open to the Magistrate to take cognizance of the offence. In the case before the Apex Court, prosecuting agency had filed an application, after submitting chargesheet, seeking permission to file supplementary chargesheet. Apex Court held that it could not affect the jurisdiction of the Magistrate to take cognizance if he was otherwise satisfied from the material placed before him along with chargesheet that cognizance of the offence was required to be taken. So far as case on hand is concerned, the endorsements referred herein above in previous paras found on the chargesheet and the order passed below application exh.4 rejecting prayer for default bail, I am of the view that the learned Magistrate was fully satisfied that the material at the time of taking cognizance was sufficient material and that chargesheet tendered cannot be said to be incomplete chargesheet. Even for the sake of arguments it is accepted that some papers were with the Investigating Officer and it was not possible for him to bring muddamal before the learned Magistrate on the day on which chargesheet was filed, even then, in light of the provisions of sub-sec(2) of sec.173 and sec.190(1)(b) of CrPC, the learned Chief Judicial Magistrate, Nadiad was authorised to take cognizance and he has rightly taken on the strength of the chargesheet tendered by the Investigating Officer. It was pointed out before this Court when petition was being argued at length that the case against the accused is committed to the Court of Sessions. While exercising the powers under Article 226 of the Constitution of India, this Court is bound to consider resultant effect of the order if passed in favour of the petitioners. I agree that the Court should be zealous in preventing and safeguarding personal liberty and freedom of persons and if required, order granting bail also can be passed by this Court by assigning adequate reasons. However, in view of the reasonings given by this Court in the decision rendered in the case of Surajmal Kanaiyalal Soni v/s State of

Gujarat, reported in 1989(1) GLH 222 and in view of the facts of that case as well as facts of the present case, I am not inclined to exercise jurisdiction of this Court vested under Article 226 of the Constitution of India. The question of quashing of chargesheet in exercise of powers under sec.482 of CrPC also does not arise because the same is not specifically prayed by the petitioners nor it is pointed out specifically by the petitioners in the petition as to on what counts charges levelled against the petitioners require to be quashed. Hence, there is no question of invoking the jurisdiction under sec. 482 of CrPC. I have also considered ratio of the judgment of the Apex Court in the case of Abhinandan Jha and others v/s Dinesh Mishra, reported in AIR 1968 SC 117 and decision of the Apex Court in the case of M/s India Carat Pvt. Ltd. v/s State of Karnataka, reported in AIR 1989 SC 885. Ratio of these judgments is that the formation of opinion by police is the final step in the investigation and such final step is to be taken by the investigating agency and not by any other authority. Investigation under the Code, involves several aspects, and stages, ending ultimately with the formation of an opinion by the police as to whether, on the material covered and collected, a case is made out to place the accused before the Magistrate for trial, and the submission of either a chargesheet, or a final report is dependent on the nature of the opinion, so formed. Here in the case on hand, Investigating Officer has prayed that accused mentioned in column no.2 of the chargesheet along with two accused persons viz. Gyanprakash Swami and Chiman Parmar who were arrested during the investigation, be discharged for want of satisfactory evidence against them. So, it would not be proper to accept the submission of learned senior counsel Mr. Shah that the order of taking cognizance against the present petitioners was without application of mind and was passed even without perusing the papers brought along with the chargesheet. Considering the scope of jurisdiction of this Court under Article 226 of the Constitution of India and the fact that learned Chief Judicial Magistrate, Nadiad has taken cognizance of the offence after application of mind against the present petitioners and in view of the provisions of sec.190(1)(b) of CrPC and considering the report tendered under sec. 173(2) of CrPC, petition deserves to be dismissed. Learned Counsel Mr. Amit Shah has tried to analyse facts of this case in light of relevant legal provisions of CrPC by placing reliance on certain decisions. One of them is decision in the case of Satya Narain Musadi and others v/s State of Bihar, reported in AIR 1980 SC 506. Paras-9 & 10 of the decision analyse

scheme of sec. 173 and especially scheme of sub-sec.(2) & (5) of sec. 173 of CrPC. Apex Court has observed therein as follows :-

" In fact, on the introduction of S.173 in its form in the Code of Criminal Procedure, 1973, the police officer investigating into a cognizable offence is under a statutory obligation to submit along with his report under S.173(2) documents purporting to furnish evidence collected in the course of the investigation and the statements of the witnesses and the Court before proceeding into the case is under a duty to inquire whether the accused has been furnished with copies of all relevant documents received under S.173 by the Court, and the entire complexion of what should normally be styled as report submitted under S.173(2) of the Code has undergone a change. Court can look at the report in prescribed form along with its accompaniments for taking cognizance of the offence."

11. Decision rendered by the Punjab & Haryana High Court in the case of State of Haryana v/s Mehal Singh and another, reported in AIR 1978 P & H 341, also deals with provisions of sec. 173, 190(1)(b), 167(2)(h) & (r) of CrPC. After considering three decisions of the Apex Court, Punjab & Haryana High Court has held as follows:-

" In the new Code the incorporation of sub-sec.(5) in S.173 has in no manner changed or affected the content or concept of the "police report" envisaged in the unamended Code in sub-sec.(1) of S.173. The incorporation of sub-sec.(5) of S.173 of the amended Code was necessitated by the fact that under S.207 of the amended Code a duty was cast additionally on the Magistrate to make available to the accused free of costs copies of the "police report" and, inter alia, the documents and statements referred to in sub-sec.(5) of S.173. In the unamended Code sub-sec.(4) of S.173 cast that duty on the police."

12. Decision rendered by the Andhra Pradesh High Court in the case of Velinedi Purnam v/s State, reported in 1994(1) Crimes P.270, deals with the same situation.

13. Most of the decisions cited by learned Senior Counsel Mr. Shah and learned counsel Mr. Amit Shah relate to the provisions of sec. 167(2) & 309 of CrPC

and relevant for the purpose of consequential reliefs prayed by the petitioner. However, as the petitioners are not entitled to grant of main relief 9(A) as prayed for by them, I do not see any need to deal with case law cited in respect of consequential reliefs or to discuss the aspect and arguments advanced in this behalf by the parties. At this stage, it is pertinent to note that learned Senior Counsel Mr. A.D.Shah has fairly submitted that relief 9(A) is the main relief and rest are the consequential reliefs. If relief 9(A) is not worth granting, then discussion in respect of other reliefs would not be relevant or warranted. As observed above, since petitioners are not entitled to grant of main relief 9(A), I do not see any need to deal with other consequential reliefs.

14. In light of observations made above, as ordered in the operative order dated 2.11.1999, the petition to return the chargesheet as the same not being in compliance with the provisions of CrPC is dismissed. The other reliefs are consequential, therefore, the same are also not granted.

15. Rule is discharged. Misc. Criminal Application No.4686/1999 is wrongly listed and shown along with this petition in the Computer. Be that it may, since Misc. Criminal Application No. 4686/1999 is disposed of by this Court (Coram: A.K.Trivedi, J) on 18.8.1999 no formal order is required to be passed in Cri.Misc. Application No. 4686/99.

28 -7-2000 [C.K. BUCH, J]
*rawal